

## **TITLE 13. CALIFORNIA AIR RESOURCES BOARD**

### **NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE AIRBORNE TOXIC CONTROL MEASURE FOR IN-USE DIESEL-FUELED TRANSPORT REFRIGERATION UNITS (TRU) AND TRU GENERATOR SETS, AND FACILITIES WHERE TRUs OPERATE**

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider the adoption of amendments to the regulation affecting transport refrigeration units (TRU) and TRU generator sets (TRU gen set) (collectively, TRUs and TRU gen sets shall be referred to as TRUs).<sup>1</sup> The proposed amendments would primarily provide model year (MY) 2001 through 2003 TRU engines that complied with applicable Low Emission TRU (LETRU) in-use performance standards by specified time periods, a one or two year extension from the more stringent Ultra-Low Emission TRU (ULETRU) in-use performance standards. This extension would serve to restore competitive fairness to those businesses that elected to comply with the regulation during 2008 through 2010, although other businesses opted to defer their compliance efforts in light of the U.S. EPA's delay in issuing ARB an authorization to enforce the regulation. The proposed amendments would also clarify manual recordkeeping requirements for electric standby-equipped TRUs, and ultimately require automated electronic tracking system requirements for such TRUs, establish requirements for businesses that arrange, hire, contract, or dispatch the transport of goods in TRU-equipped trucks, trailers or containers (i.e., brokers, shippers or receivers), and clarify issues that were identified during the implementation of the regulation.

DATE: October 20, 2011

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency  
Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., on Thursday, October 20, 2011, and may continue at 8:30 a.m., Friday, October 21, 2011. This item may not be considered until Friday, October 21, 2011. Please consult the agenda for the meeting, which will be available at least ten days before October 20, 2011, to determine the day on which this item will be considered.

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<sup>1</sup> Title 13, CCR section 2477 is known as the Transport Refrigeration Unit Airborne Toxic Control Measure and establishes in-use performance standards, recordkeeping, and facility reporting requirements for TRUs and TRU generator sets.

## **INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW**

**Sections Affected:** Proposed amendment of section 2477 and adoption of sections 2477.1, 2477.2, 2477.3, 2477.4, 2477.5, 2477.6, 2477.7, 2477.8, 2477.9, 2477.10, 2477.11, 2477.12, 2477.13, 2477.14, 2477.15, 2477.16, 2477.17, 2477.18, 2477.19, 2477.20, and 2477.21, California Code of Regulations (CCR), title 13, Division 3, Chapter 9, Article 8.

**Background:** Over 90 percent of Californians breathe unhealthful air at times. To improve air quality and human health, ARB establishes requirements to reduce emissions from new and in-use on-road and off-road vehicles, engines, and other sources.

The California Toxic Air Contaminant Identification and Control Program, established under California law by Assembly Bill 1807 (Stats. 1983, Ch. 1047) and set forth in Health and Safety Code (H&S Code) sections 39650-39675, requires ARB to identify and control air toxicants in California. In 1998, the Board identified particulate matter (PM) emissions from diesel-fueled engines as a toxic air contaminant (TAC). Two years later, in September 2000, the Board adopted the Risk Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Engines and Vehicles (Diesel Risk Reduction Plan (RRP)). The Diesel RRP established a goal of reducing emissions and the resultant health risk from virtually all diesel-fueled engines and vehicles within the State of California by the year 2020, and included the goal of reducing diesel PM by 85 percent in 2020 from the baseline emissions in 2000. The Diesel RRP also identified various control measures for achieving the goals. These measures included new, more stringent standards for all new diesel-fueled engines and vehicles, the replacement of older in-use engines with new, cleaner engines, the use of diesel emission control strategies on in-use engines, and the use of low-sulfur and alternative diesel fuels.

TRU diesel engines currently (2011) emit approximately 1.4 tons per day of diesel PM. Staff determined that there are situations where the public's estimated 70-year potential cancer risk resulting from exposure to diesel PM emissions from TRUs is in excess of a 100 in a million, because of the high cancer-causing potential of diesel PM and the potential for large numbers of TRUs to operate at one location, such as distribution centers located near residential areas.

On May 16, 2002, the Board approved the *Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines* (title 13 CCR, sections 2700-2710). This regulation establishes procedures for the verification of diesel emission control strategies by ARB that can be utilized in various diesel-fueled engines, including those in TRUs, to significantly reduce diesel PM emissions.

Health and Safety Code (H&S Code) sections 39666 and 39667 require ARB to adopt regulations to achieve the maximum possible reduction in public exposure to TACs

through the application of best available control technology (BACT), or a more effective control method, in consideration of cost, risk, environmental impacts, and other specified factors.

The TRU ATCM is part of ARB's ongoing effort to reduce PM emissions from diesel-fueled engines and vehicles, and to improve air quality. ARB adopted the TRU Airborne Toxic Control Measure (ATCM) in 2004. The TRU ATCM established in-use performance standards for TRUs and TRU gen sets that were to be phased in commencing on December 31, 2008. In March 2005, ARB requested that the U.S. Environmental Protection Agency (U.S. EPA) grant ARB authorization to adopt and enforce the TRU ATCM pursuant to Clean Air Act (CAA) section 209(e)(2); U.S. EPA granted California such authorization on January 16, 2009. However, because U.S. EPA's authorization was granted after the first compliance date specified in the TRU ATCM, ARB delayed the enforcement of the TRU ATCM's in-use performance standards until January 2010.

On February 2, 2011, the Board adopted amendments to the TRU ATCM that provided owners of MY 2003 TRU engines in the 25 horsepower (hp) and greater category, and of MY 2003 and MY 2004 engines in the less than 25 hp category, the option to meet the less stringent Low-Emission TRU (LETRU) in-use performance standard in lieu of complying with the otherwise applicable Ultra-Low-Emission TRU (ULETRU) in-use performance standard. The Board also adopted amendments to clarify that "flexibility" engines installed in TRUs by original equipment manufacturers before the effective date of those amendments under either the federal Transitional Program for Equipment Manufacturers or California's equipment manufacturer flexibility program (title 13 CCR, section 2423(d)), would be provided seven years of operational life, and that flexibility engines installed after that date would be subject to shorter operational lives under the amendments. Finally, the amendments established new reporting requirements on TRU original equipment manufacturers.

#### **Description of the Proposed Regulatory Action:**

ARB staff is proposing to amend the TRU ATCM to primarily provide model year (MY) 2001 through 2003 TRU engines that complied with applicable LETRU in-use performance standards by specified time periods, a one- or two-year extension from the more stringent ULETRU in-use performance standards. The proposed amendments would also clarify manual recordkeeping requirements for electric standby-equipped TRUs, and ultimately require automated electronic tracking system requirements for such TRUs; establish requirements for businesses that arrange, hire, contract, or dispatch the transport of goods in TRU-equipped trucks, trailers or containers (i.e., brokers, shippers, or receivers); and clarify issues that were identified during the implementation of the regulation. A more detailed description of the proposed amendments is presented below.

#### ***Applicability***

The proposed amendments would apply to owners of MY 2001, 2002, and 2003 and older TRU engines that met the LETRU in-use standards by their originally-specified

compliance dates. Freight brokers and forwarders, shippers, and receivers would be affected by the proposed amendments if they arrange the transport of perishable goods on California highways with refrigerated carriers. The amendments would also affect owners of TRUs that are equipped with electric standby, and TRU original equipment manufacturers, dealers, repair shops, lessors and lessees, and engine rebuilders.

*Extend ULETRU Compliance Date for MY 2001 and Older TRU Engines That Complied With the LETRU In-Use Performance Standard by December 31, 2008*

This proposed amendment would extend the ULETRU compliance date by one year for those MY 2001 and older TRU engines that complied with the LETRU in-use standard by December 31, 2008. This proposed amendment would serve to restore competitive fairness to those businesses that elected to comply with the original TRU regulation during 2008 through 2010, although other businesses opted to defer their compliance efforts given their uncertainty resulting from U.S. EPA's delay in issuing ARB an authorization to enforce the regulation. This proposed amendment would accordingly extend the current ULETRU compliance deadline for qualifying TRU engines from December 31, 2015, until December 31, 2016.

*Extend ULETRU Compliance Deadline for MY 2003 and Older TRU Engines That Complied With the LETRU In-Use Performance Standard by December 31, 2009 or December 31, 2010*

At the Board's November 18, 2010 public hearing to consider the 2010 amendments to the TRU ATCM, the Board directed staff to evaluate industry's request that the current seven-year operational life for TRUs be extended up to three additional years. Industry's request would therefore extend the ULETRU compliance dates for MY 2004 and newer model TRU engines by up to three years. Staff evaluated the public health risk near distribution centers using updated TRU engine activity information and the current U.S. EPA-sanctioned air dispersion model, and determined that the public health risk at the current seven-year operational life for TRUs still results in potential cancer risk levels of concern in communities near facilities where TRUs congregate. Extending the operational life of TRUs would only increase these risks. Accordingly, staff is not recommending that the current operational life for MY 2004 and newer TRU engines be extended.

However, staff is proposing to extend the ULETRU compliance date by one year for MY 2003 and older TRU engines that complied with the LETRU in-use performance standard by specified dates (December 31, 2009 for MY 2001 and MY 2002 TRU engines; December 31, 2010 for MY 2003 TRU engines). This proposed amendment would operate in conjunction with the proposed amendment described immediately above, so that MY 2001 and older engines that complied with the LETRU standard by December 31, 2008 could qualify for a total of a two-year extension from the ULETRU standard compliance date. This proposed amendment would provide economic relief to owners who had to take action during the height of the recession. Furthermore, the proposed amendment would only have a minimal emissions impact since most of the

affected in-use TRU engines would already be controlled to LETRU levels and the near-source public health risk impacts associated with those emissions would be minimal.

*Clarify Operational and Recordkeeping Requirements, and Require Automated Electronic Recordkeeping of Hybrid Electric, Electric-Standby (E/S) Equipped, and Hybrid Cryogenic TRUs*

The TRU ATCM currently allows TRU owners to utilize hybrid electric, hybrid cryogenic, and electric-standby (E/S) equipped TRUs as compliance options (Alternative Technology compliance option). This option applies if such TRUs are operated in a manner that eliminates diesel engine operations at the facilities where TRUs operate. When staff established the Alternative Technology compliance provision in the original TRU ATCM, it intended that owners using this option needed to document, via recordkeeping, that TRU engine operations at facilities were in fact eliminated. However, manual records submitted by owners have been incomplete and inconsistent. The proposed amendments would therefore specify the information required to be provided in manual records.

The proposed amendments clarify that Alternative Technology compliant TRUs are allowed to operate under diesel engine power from the time they enter the facility fence line or property line until they are parked, from a parking spot to the gate upon leaving the facility, and while being moved to and from loading docks to parking spots by yard hostlers. Engine run time within a facility fence line would be limited to no more than five minutes each time the unit moves within the facility fence line or property boundary.

The proposed amendments also clarify, that to qualify as an Alternative Technology, facilities in California where E/S-equipped TRUs are based must have electric power plugs located where TRU equipped trucks are parked for the initial van chill-down and while awaiting dispatch and at the loading spaces. These power plug requirements also apply to any nonretail facility in California where an E/S-equipped TRU truck picks up or delivers goods if the van load includes perishable goods. At retail delivery and pick-up points, including but not limited to restaurants, grocery stores, convenience stores, and cafeterias, TRU engine run time is allowed, but limited to no more than 30 minutes per delivery/pick-up point. Electric power plugs are required at retail delivery and pick-up points if more than 30 minutes of TRU engine run time is necessary. Finally, hybrid electric or E/S TRUs must be equipped with non-resettable hour meters that record both engine and shore-powered electric motor run time (separately). This will facilitate hour meter reading records that are required.

The proposed amendments phase-in electronic recordkeeping for hybrid electric and E/S TRUs. At least 50 percent of an owner's fleet of hybrid electric or E/S-equipped TRUs that have passed an in-use compliance deadline would need to be equipped with electronic tracking systems by December 31, 2012, and the remainder of those units would be equipped by December 31, 2013. In addition, 100 percent of an owner's hybrid electric or E/S-equipped TRUs that have a December 31, 2013 in-use

compliance date would also have to meet the electronic tracking system requirement. Every year thereafter, all of hybrid electric or E/S-equipped units that are required to meet an in-use standard by the end of the year would be required to meet the electronic tracking system requirement. The electronic tracking systems must provide automated Global Positioning System (GPS) tracking, engine run time monitoring, recordkeeping and reporting. Staff believes that the use of automated tracking and reporting systems will result improve enforceability and labor savings that more than pay for the capital and operating costs of such systems.

The proposed amendments will require out-of-state owners that elect to use the Alternative Technology compliance option to register those TRUs in ARBER (in-state owners are already required to register all of their units).

*Requirements That Freight Brokers and Forwarders, Shippers, and Receivers Ensure That the Carriers They Hire Use California-Compliant TRUs*

This proposed amendment would require a business entity that arranges, hires, contracts for, or dispatches the transport of perishable goods in TRU-equipped trucks, trailers, shipping containers, or railcars to require the carriers they hire or contract with to only dispatch equipment with TRUs that comply with the TRU ATCM's in-use standards if they travel on California highways or railways. That business entity would also be required to provide the driver with their company contact information and a bill of lading that includes shipper, carrier, and receiver information. The driver, in turn would be required to provide this information to an ARB inspector, upon request.

*Limited Exemption for Mobile Catering Service TRUs*

This proposed amendment would provide a limited exemption to mobile catering companies for TRUs that are used during emergencies, such as TRUs on refrigerated trucks and trailers that are used to feed emergency responders, such as firefighters suppressing wildfires. The proposed exemption would allow qualifying mobile catering services to defer compliance with the in-use performance standards until January 2025.

*Clarifying Requirements for Repowering a TRU With a New Replacement Engine or a Rebuilt Engine*

The proposed amendments clarify that new or rebuilt replacement engines used to repower a TRU must meet more stringent emissions standards than the TRU's original engine, and are subject to the TRU ATCM's in-use standards that are based on the new or rebuilt replacement engine's model year or effective model year.

Current tier new replacement engines would use the engine model year shown on the engine emissions label to determine the in-use standard that must be met and the in-use compliance deadline. Prior-tier new replacement engines would use the effective model year of the engine, as defined, to determine the in-use standard that must be met and the in-use compliance deadline.

The proposed amendments would require rebuilt replacement engines to meet the requirements of a new section of the TRU ATCM (section 2477.16) that clarifies federal and State requirements applicable to TRU engines. The amendments also clarify that when a rebuilt engine meets a prior-tier new engine emissions standard, the effective model year is used, which is the last year that the tier standard was in effect. However, if a rebuilt engine meets a tier standard for new engines that is currently in effect, then the model year, for the purposes of the TRU ATCM would be the year that the engine was rebuilt. Section 2477.16 also includes supplemental label requirements that include the model year.

*Clarifying TRU Dealer Requirements to Allow California Dealers to Acquire Non-compliant TRUs and to Transmit Registration Information to the Ultimate Purchaser*

The proposed amendments allow dealers doing business in California to purchase, receive, or acquire and possess noncompliant TRUs in California under certain circumstances (e.g., to accept non-compliant trade-ins when TRU owners buy new or newer compliant TRUs).

The proposed amendments also require dealers that sell new units or replacement engines, whether new or rebuilt, to pass a registration information document to the ultimate purchaser at point of sale. The registration document would come with the new unit or new replacement engine from the TRU original equipment manufacturer (OEM), or from the rebuilt engine supplier. If a new replacement engine is not supplied with a registration information document, then the dealer must provide a registration information document, which would include all of the engine information needed to register the unit in ARBER.

*Provide Extensions When Compliance Technology is Not Available or Based on Delays Due to Private Financing, Equipment Manufacture Delays, or Installer Delays*

The proposed amendments would authorize the Executive Officer to grant up to an one-year extension of a compliance deadline if no compliance technology is available for a specific TRU or TRU gen set within six months of a compliance date, or a one-time extension, not to exceed four months, if financing, delivery, or installation is delayed. These amendments provide flexibility in addressing issues related to Verified Diesel Emissions Control Strategies (VDECS) and other compliance options which may not be fully available on the market immediately prior to a compliance date.

*Clarify Exemptions for Obviously Non-Operational Equipment and Refrigeration Systems Not Powered by Integral Diesel Engines*

The proposed amendments clarify that obviously non-operational TRUs and TRU gen sets are exempt from certain subsections of the TRU ATCM, and that transport refrigeration systems that are not driven by an integral diesel internal combustion engine are exempt from the TRU ATCM.

### *Clarify Prohibitions on Selling Non-compliant TRUs*

The proposed amendments extend the prohibitions of selling non-compliant TRUs to any person selling such non-complaint units. Auctioneers and motor carriers are now expressly included in the section prohibiting persons from intentionally or negligently importing, delivering, purchasing, or otherwise acquiring non-compliant new or used TRU or TRU gen set engines. The proposed amendments also require a seller of a non-compliant unit to disclose to a potential buyer located outside of California that the unit is not compliant with the in-use requirements and cannot be legally operated in California. In addition, the proposed amendments also prohibit an owner of a TRU equipped with an Alternative Technology, such as electric standby, from selling it, without disclosing in writing that it must be used in a way that qualifies it as an Alternative Technology.

### *Clarify and Streamline Requirements for Lessors and Lessees*

The proposed amendments would formalize policies that staff developed in conjunction with companies that lease or rent TRU-equipped trucks and trailers which streamline issues related to the ARBER registration requirements, Operator Reports, and the in-use standards.

### *Allow Use of Unit Manufacture Year Instead of Engine Model Year to Determine Compliance Requirements and Dates*

The proposed amendments allow the year that a TRU was manufactured, instead of the TRU engine model year, to be used in determining the applicable in-use performance standards and the related compliance deadline, provided that the difference between the unit manufacture year and the engine model year is no more than one year. If the difference between the unit manufacture year and model year is greater than one year, the engine model year must be used to determine compliance dates. However, the engine model year must be used when determining VDECS compatibility and must also be entered into the space for engine model year when registering the TRU in ARBER.

### *Allow the Use of Unique Identification Numbers Instead of Affixing an ARB Identification Number (IDN)*

The TRU ATCM currently requires owners of California-based <sup>TRUs</sup> to apply for ARB Identification Numbers (IDN) and affix or paint the IDNs onto the TRU or TRU generator set (gen set) housing. ARB IDNs are voluntary for out-of-state-based units. The proposed amendments will allow the use of Bureau International des Containers (BIC) codes, or reporting marks in place of ARB IDNs, provided: the owner must still apply for an ARB IDN if the unit is California-based, the BIC-Code or reporting mark must be unique for each piece of equipment, and the BIC-Code or reporting mark must meet the same readability specifications currently required for ARB IDNs.



### *Additional Requirements for TRU Original Equipment Manufacturers (OEMs)*

The proposed amendments require TRU OEMs that plan to equip TRUs with flexibility engines to: notify ARB at least 12 months in advance of the first flexibility engine installation in production; beginning 120 days after the effective date of the regulation, provide a supplemental engine emissions label for each flexibility engine installed in new TRUs and attach this label to the engine in an easily accessible place; and provide a written disclosure to prospective buyers, prior to sale of new TRUs, notifying them when a TRU is equipped with a flexibility engine, the effective model year of the engine, the ULETRU compliance deadline, and that the effective model year must be entered for the model year when the unit is registered in ARBER.

Beginning 120 days after the effective date of the amendments, the proposed amendments also require TRU OEMs to provide, for prior-tier replacement engines, supplemental engine emissions labels for each new replacement engine they supply. This label would list all of the engine information needed to register the equipment in ARBER (if the engine manufacturer's emissions control label does not provide this information). Additionally, TRU OEMs would be required to provide written disclosure with each prior-tier engine supplied. This written disclosure would be passed on to interested buyers, notifying them that they are buying a prior-tier replacement engine that was manufactured to meet a less stringent prior-tier emissions standard than is currently required. This notification would also provide the effective model year of the prior-tier replacement engine and the ULETRU compliance deadline. Finally, the OEMs would be required to provide a registration information document with each prior-tier replacement engine they supply that would be passed on to the end user. The registration information document would include all of the engine information needed to register the equipment in ARBER and be consistent with the information that is on the engine emissions label and supplemental engine label.

Beginning 120 days after the effective date of the amendments, the proposed amendments require TRU OEMs provide, for current-tier replacement engines and new TRUs and TRU Gen Sets, a registration information document with each current-tier replacement engine or new TRU or TRU Gen Set they supply that would be passed on to the end-user. This document would also include all of the engine information needed to register the equipment in ARBER and be consistent with the registration information that is on the engine emissions label and supplemental engine label.

### *Additional Requirements for Dealers and Repair Shops*

The proposed amendments require dealers and repair shops to pass the registration information documents, which are supplied with new units, new replacement engines, and rebuilt engines, to the end-user. If a registration information document was not included with a replacement engine, the dealer or repair shop would have to provide it.

### *Additional Requirements for Engine Rebuilders*

The proposed amendments require engine rebuilders to follow the federal and State engine rebuild practices of 40 CFR sections 89.130 and 1068.120, and title 13, CCR section 2423(l), and provide the supplemental rebuilt engine labels including engine model, engine effective model year (if prior-tier standard is met) or model year (if current-tier standard is met), and horsepower rating. Supplemental engine labels would need to be affixed to the rebuilt engine in a readily accessible location in accordance with 40 CFR section 89.110 (for Tier 2), or 40 CFR section 1039.135 (for Tier 4i).

Engine rebuilders would also be required to provide, within 30 days of request, documentation and engineering arguments demonstrating that they have complied with the engine rebuilding practices of 40 CFR sections 89.130 and 1068.120, and title 13 CCR section 2423(l). This technical demonstration must be completed, signed, and stamped by a licensed mechanical engineer with knowledge of the design and function of diesel engines and the control of their emissions. As part of the evaluation of the demonstration, the Executive Officer may require an emissions test to be conducted if the documentation and engineering arguments are not found to be satisfactory.

Engine rebuilders would also be required to provide a registration information document with each rebuilt engine that provides all of the engine information required under section 2477.5(e), with instructions to the dealer or repair shop to pass this document through to the end-user. The information on the registration information document would need to be consistent with the information that is on the supplemental engine label.

### *Clarify Registration Requirements, Consistent with ARBER Screens*

During implementation, staff learned that additional information was needed to validate the registration information that was required by the original regulation. Staff believes that most of the additional data elements fall within the umbrella of existing data requirements and they are currently implemented in ARBER; however, adding them specifically would clarify the requirements and improve enforceability. Therefore, proposed amendments add registration information requirements to section 2477.5(e), which are consistent with current ARBER registration screens.

With the above-described proposed amendments, the TRU ATCM would continue to substantially decrease diesel PM and NO<sub>x</sub> emissions, but would defer a small portion of emissions one or two years toward the end of the in-use standards phase-in (2016-2018).

### **COMPARABLE FEDERAL REGULATIONS**

There are no federal regulations comparable to the TRU ATCM for in-use TRUs. Under federal Clean Air Act (CAA) section 213, U.S. EPA is without authority to adopt in-use

standards for off-road (non-road) engines.<sup>2</sup>

Section 209(e)(1) of the CAA conclusively preempts states, including California, from adopting requirements for new off-road engines less than 175 hp that are used in farm or construction equipment. Under section 209(e)(2), California may adopt and enforce emission standards and other requirements for off-road engines and equipment not conclusively preempted by section 209(e)(1), so long as California applies for and receives authorization from the Administrator of U.S. EPA. TRU engines are not used in farm and construction equipment and are thus not preempted. California requested and received authorization from U.S. EPA for the initially adopted TRU ATCM in January 2009.<sup>3</sup>

### **AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS**

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the potential environmental and economic impacts of the proposal. The report is entitled, *Proposed Amendment of the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units and TRU Generator Sets, and Facilities Where TRUs Operate*.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strike-out format to allow comparison with the existing TRU ATCM, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on September 2, 2011.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website for this rulemaking at:  
<http://www.arb.ca.gov/regact/2011/tru2011/tru2011.htm>.

Inquiries concerning the substance of the proposed regulations may be directed to the designated agency contact persons, Richard Boyd, Manager of the Process Evaluation Section, Emission Assessment Branch, Stationary Source Division at (916) 322-8285, or Rod Hill, Staff Air Pollution Specialist, Stationary Source Division at (916) 327-5636.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed, are Ms. Lori Andreoni, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which

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<sup>2</sup> The California term "off-road" and the federal term "nonroad" refer to the same sources and are used interchangeably.

<sup>3</sup> 74 Fed Reg 3030 (January 16, 2009).

includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2011/tru2011/tru2011.htm>.

## **COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED**

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed amendments are presented below. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

### *Costs or Savings to Businesses and Private Individuals*

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses.

Overall, there will be a net cost savings for compliance with the proposed amendments of approximately \$13 million (2011 dollars) from 2011 through 2029. Extending the in-use standard for ULETRU for MY 2003 and older engines which met LETRU by their respective compliance dates will result in a one-time cost savings of approximately \$320,000 in 2011 dollars. The cost savings from using electronic recordkeeping for electric standby units compared to manual recordkeeping is about \$3.9 million. The cost to brokers, shippers or receivers for ensuring that the carriers they contract with only dispatch equipment with compliant TRUs is approximately \$900,000 annually, with a total of approximately 11 million dollars from 2011 to 2029. A one-time cost savings for exempting TRUs used in emergencies is about \$320,000. A cost savings of about \$21 million is estimated for allowing use of the TRU model year rather than the engine model year to determine compliance dates. Requiring OEMs, dealers, installers, and rebuilders to provide supplemental engine labeling and registration information documentation will result in costs of approximately \$200,000 annually, with a total of \$1.6 million from 2011 to 2020.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

Alternatives to the proposed amendments are described in more detail in the Staff Report.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or

elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect small businesses because staff anticipates there will be cost savings if TRU and TRU gen set owners choose the retrofit compliance option. Compliance costs would not be affected if owners choose the repower option.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory amendments, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

#### *Costs or Savings to Local and State Government Agencies*

Pursuant to Government Code sections 11346.5(a)(5), the Executive Officer has determined that the proposed regulatory action would not create any costs to or mandates on any local agency or school district that is reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500).

Pursuant to Government Code sections 11346.5(a)(6), the Executive Officer has further determined, based on estimates prepared in accordance with instruction adopted by the Department of Finance, that the proposed regulatory action would not create additional costs to any State agency or to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), create other nondiscretionary costs on local agencies, and affect costs or savings in federal funding to the State.

Several local agencies, school districts, and State agencies own TRUs, so the compliance cost savings discussed above may apply to these agencies if they own MY 2003 and older TRU engines or engines with a model year that is one year older than the unit manufacture year.

#### **SUBMITTAL OF COMMENTS**

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on

September 3, 2011. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after September 3, 2011, and received **no later than 12:00 noon on October 19, 2011**, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), written and oral comments, attachments, and associated contact information (e.g., your mailing address, phone number, email address, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Board requests, but does not require, that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board members have time to fully consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

### **STATUTORY AUTHORITY AND REFERENCES**

This regulatory action is proposed under the authority granted in Health and Safety Code, sections 39600, 39601, 39618, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.14, 42400.2, 42400.3.5, 42402, 42402.2, 42410, 43013, 43018. This action is proposed to implement, interpret, and make specific sections 39618, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.2, 42410, 40717.9, 43013, and 43018.

### **HEARING PROCEDURES**

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action; in such event, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

### **SPECIAL ACCOMMODATION REQUEST**

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing.

TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alternativo (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD

/s/

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James N. Goldstene  
Executive Officer

Date: August 31, 2011